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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,969	09/26/2003	Keith Homer Baker	7836XDCL	7274
27752 7590 07/30/2008 THE PROCTER & GAMBLE COMPANY Global Legal Department - IP Sycamore Building - 4th Floor 299 East Sixth Street CINCINNATI, OH 45202				
EXAMINER TSOY, ELENA				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
07/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/671,969

Applicant(s)

BAKER ET AL.

Examiner

Elena Tsou Lightfoot

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 76-119 is/are pending in the application.
- 4a) Of the above claim(s) 77-82 and 94-118 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 76, 83-93 and 119 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Request for Reconsideration

1. The Request for Reconsideration filed on June 23, 2008 has been entered and considered. Claims 76-119 remain pending in the application. Claims 77-82, 94-118 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 76, 83-93, 119 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (JP 10276961) in view of Ishikawa et al (US 5306435) and Wu et al (CN 1052685A) for the reasons of record set forth in paragraph 4 of the Office Action mailed on 3/27/2008.
4. Claims 85, 90-92, 119 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Yoshioka (JP 09271597) for the reasons of record set forth in paragraph 5 of the Office Action mailed on 3/27/2008.

Response to Arguments

Applicant's arguments filed June 23, 2008 have been fully considered but they are not persuasive.

(A) Applicants submit that the Examiner has mischaracterized the cleaning methods disclosed by Watanabe. Specifically, Watanabe does not disclose or suggest that the treating compositions provided by Watanabe do not damage leather shoes any less than other detergents.

In response to applicant's argument that Watanabe fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *washing leather shoes using one treating composition should be damaged any less than using other treating composition*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(B) Applicants submit that it is clear from the context of Watanabe, that Watanabe is comparing the problem in the art associated with damage to leather shoes by mechanical agitation and brushing, versus sparing that damage by merely spraying at pressure. Watanabe is not referring to the effect of the detergent nor does Watanabe ever suggest that the detergent itself does not damage, or reduces damage to shoes.

The Examiner respectfully disagrees with this argument. Watanabe uses a formulation containing claimed benefit agents in a process that is substantially identical to that of claimed invention. Therefore, the effect of the process of Watanabe would achieve the same benefits as Applicants claimed invention. It is well settled that the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

(C) Applicants submit that Watanabe fails to teach or disclose a treatment formulated to remove Ca and Mg ions without removing desirable chromium from the leather. Watanabe is completely unconcerned with removal of chromium from the leather portion of the shoes. Watanabe discloses reduction of detergent-related damage by limiting exposure to the detergent and by exposing the shoe to extensive ozone-drying and charcoal deactivating processes. The actual treatment compositions comprising a detergent appear fairly harsh on a relative basis, and are disclosed to include a high percent of soap (28%, e.g. P13), acidic conditions, and the presence of anionic surfactant systems ((P 13) specifically taught as having the potential to remove chromium by the instant specification (see, e.g. page 25, lines 26-35, providing guidance on formulation ingredients which preserve chromium in leather).

The Examiner respectfully disagrees with this argument. First of all, claim 93 recites cleaning agent without any limitation to its harshness. Therefore, claimed invention reads on any cleaning agent including harsh detergents. Second, the fact that Watanabe discloses *reduction of detergent-related damage* by limiting exposure to the detergent reads on claimed limitation "without removing significant levels of chromium" because prolonged exposure to the detergent

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would remove significant levels of conventional treating agents of treated ordinary leather such as chromium.

(D) Applicants submit that the entire disclosure of Watanabe including the guidance therein is completely irrelevant to the damage caused to shoes by washing via conventional means in an aqueous medium. Watanabe discloses a 26 hour process that does not include washing shoes in an aqueous medium and, in fact, specifically seeks to avoid prolonged contact of the shoes with a moist environment.

In contrast to Applicants argument, Watanabe expressly teaches that the outside of the shoes may be quickly **washed** using a *gel* detergent B made by mixing palm oil, glycerin, palm kernel oil, lanolin and wax with acidic **water** (See P15). Clearly, the outside of the shoes is quickly **washed in water**.

(E) Applicants submit that Ishikawa, applied to evidence that it is common knowledge in the art that "chromium salt is generally used for tanning leather and tanned leather is used for making shoes," fails to overcome the deficiencies of Watanabe with respect to establishment of the prima facie case. With respect specifically to the Examiner's suggestion that a disclosure of an article made from leather assumes the disclosure of the use of chromium salts to tan the leather, Applicants note that it is common knowledge to the art of tanning that leather may be tanned by either vegetable or mineral tanning processes, with chromium salts only implicated in the latter. In fact, many cultures in Asia prefer vegetable tanning, which uses tannin, a natural substance derived from tree bark.

The Examiner respectfully disagrees with this argument. Watanabe teaches that leather is ordinary leather (See P12) without limiting to particular tanning process. Therefore, "ordinary leather" in Watanabe reads on leather treated with either vegetable or mineral tanning processes.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy Lightfoot whose telephone number is 571-272-1429. The examiner can normally be reached on Monday-Friday, 9:00AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy-Lightfoot, Ph.D.
Primary Examiner
Art Unit 1792

July 30, 2008

/Elena Tsoy Lightfoot/

Primary Examiner, Art Unit 1792